

REMARKS

Claims 1-6 are pending in this application. No claims are amended and Claim 6 is new. No new matter is added. Applicants note with appreciation the examiner's willingness to discuss the case over the phone. Applicant respectfully requests reconsideration of the application in view of the following remarks.

35 U.S.C. 102 Rejection

Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothman (Current Opinion in Pediatrics: 1995, 7:415-422) (hereinafter "Rothman"). Applicant respectfully traverses this rejection. Claim 1 states, *inter alia*, "applying a topical anesthetic to the epidermal lesion and the surrounding epidermis following the administration of the liquid nitrogen." The disclosure of Rothman discusses the treatment of warts by freezing with liquid nitrogen. Rothman does not disclose the order of steps wherein the application of the topical anesthetic occurs after the thawing of the epidermal lesion. Rothman applies the topical anesthetic as recommended by the manufacturer, wherein the topical anesthetic is applied between 30 and 120 minutes before the procedure and covered with a dressing, such as adhesive bandages (Paragraph [0010] of the specification; Exhibit A, EMLA® Cream Directions for Use, pp. 52-53, AstraZeneca AB, <http://www.anaesthesia-az.com/sites/156/imagebank/typeArticleparam509805/10226.pdf>; and Exhibit B How to Use EMLA Cream, AstraZeneca, <http://www.anaesthesia-az.com/article/509820.aspx>). The use of a topical anesthetic before performing many procedures is known in the art (Exhibit C, EMLA® Cream, Cincinnati Children's Hospital Medical Center, <http://www.cincinnatichildrens.org/health/info/medication/a-e/emla-cream.htm>).

Rothman discloses the use of ELMA® Cream under an adhesive bandage before the procedure to numb the skin as recommended by the manufacturer. Applicant is not aware of any reference disclosing the use of a topical anesthetic either following the administration of liquid nitrogen therapy, to relieve the pain associated with the thawing of the epidermal lesion, or to relieve pain in about 15 seconds of applying the topical anesthetic following the administration of liquid nitrogen. Applicant respectfully disagrees with the Office's suggestion that Rothman discloses the steps of treating

epidermal lesions in any particular order, and that Rothman discloses the step of “applying a topical anesthetic to the epidermal lesion and the surrounding epidermis following the administration of the liquid nitrogen.” Rothman does not disclose or suggest the features recited in Claims 1 and 3-6. Applicant respectfully requests that the Office withdraw this rejection.

35 U.S.C. 103 Rejection

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rothman. Applicant respectfully traverses this rejection. Claim 2 is dependent from Claim 1 and states, *inter alia*, “wherein the step of applying the topical anesthetic occurs during the thawing of the epidermal lesion.” Rothman does not disclose the application of a topical anesthetic during the thawing of an epidermal lesion. Due to the nature of epidermal lesions, the thickness of the outer layer of epidermis likely prevents the diffusion of the topical anesthetic from the surface of the skin to the deeper layers (Paragraph [0011] of the specification). It is expected that the treatment with liquid nitrogen is still painful and stings for about 5 minutes, even after the pre-treatment of the skin with the topical anesthetic according to the manufacturer’s instructions. Applicant respectfully disagrees with the Office’s suggestion that it would be obvious to apply the cream as quickly as possible, immediately after the application of liquid nitrogen during the thawing of the lesion.

Neither Rothman or the current state of the art discloses, teaches, or suggests the features recited in dependent Claim 2. Claim 2 is dependent on Claim 1 and therefore should be allowable based on the allowance of Claim 1. Applicant respectfully requests that the Office withdraw this rejection.


Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims of the present invention define subject matter patentable over the references cited by the Office and that the application is in condition for allowance. Should the Office believe that anything further is desirable to place the application in better condition for allowance, the Office is invited to contact Applicant's undersigned attorney at the below listed telephone number.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to deposit account number 03-2469. Moreover, if the deposit account contains insufficient funds, the Commissioner is hereby invited to contact Applicant's undersigned representative to arrange payment.

Respectfully submitted,

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